

## **REMARKS**

This response to the Office Action dated March 18, 2008 (the “Office Action”) is filed with a request for a one month extension of time. Authorization is given to charge the extension of time fees and any necessary fees to Deposit Account No. 50-0951.

At the time of the Office Action, claims 16, 18-29 and 31-33 were pending. In the Office Action, claims 16 and 31-33 were objected to, claims 16, 18-29 and 31-33 were rejected and all claims were rejected under 35. U.S.C. §102. The rejections and response thereto are set forth below.

### **I. Claim Objections and Response Thereto**

The Office Action objected to claims 16 and 31-33 for having reference numbers in the body of the claim without parenthesis. Appropriate amendments have been made and withdrawal of the objections is respectfully requested.

### **II. Claim Rejections and Response Thereto**

The Office Action rejected claims 16, 18-29 and 31-33 for being indefinite. Appropriate amendments have been made and withdrawal of the rejections is respectfully requested.

### **III. Rejections Under 35 U.S.C. §102 and Response Thereto**

The Office Action rejected all claims as being anticipated by U.S. Patent No. 3,460,763 to Kopp (“Kopp”). Applicant respectfully notes that Kopp is directed to variable-area nozzle for use in connection with jet engines of supersonic aircraft. *See* Kopp, col. 1, lines 20-22.

In contrast, the current application is directed to a gas burner for use in connection with thermal weed killing. Applicant has amended the independent claims to clarify the claims in this regard. Support for the amendments to the independent claims can be found in paragraphs [0047]-[0049] of the published application (*i.e.* U.S. Patent Application Publication No. 2005/0214705) and the figures. Additionally, support for the amendments to dependent claims 19 and 20 can be found in paragraphs [0039]-[0044] of the Published Application and the figures. Finally, support for new claim 34 can be found in paragraphs [0050]-[0051] of the Published Application and figure 5. Now new matter has been added.

Applicant respectfully submits that Kopp fails to disclose each and every element of the claims, as amended. First and foremost, Kopp, being directed to jet engines of supersonic

aircraft, fails to disclose, suggest, or render obvious the claimed gas weed killing burner device. Furthermore, Kopp fails to disclose, suggest, or render obvious the limitation of a bell cover (400) coaxial to an axis of diffusion of a flame, where the bell cover (400) is rotatably mounted to a fixed nozzle (121) such that the bell cover (400) is rotatable around a vertical axis of the burner (B). As such, the bell cover (400) is configured to rotate when it brushes against the stem of a plant, tree or bush while weeds are being killed by the flames exiting the movable diffusion cone (200).

Instead, the conical sheet-metal shell 30 of Kopp is not rotatably mounted to anything since it is part of swiveling nozzle 10. Applicant respectfully submits that a swivel mounting is different than a rotatable mounting in that the claimed rotatably mounted bell cover (400) can spin/rotate around a vertical axis. The swiveling nozzle 10 cannot spin/rotate around any axis.

The claimed bell cover (400) that is rotatably mounted prevents the burner devices from coming into contact with the plants near weeds to be killed, but at the same time, the rotation of the bell cover (400) allows use of the device a close a possible to trees, plants and other flora. The claimed bell cover (400) also guarantees the correct diffusion of the flames on the cone 200 by protecting the flux of flames. Still further, claimed bell cover (400) also guarantees the presence of a circle of fresh air protecting the plants by restricting the high-temperature zone caused by the flames, which also avoids inefficient wasting of flames.

Turning to dependent claims 19 and 20, Kopp fails to disclose, suggest, or render obvious the limitation of a control rod (300) that extends along the main body (100) and into an approximate center of the tip (210) of the moveable diffusion cone (200), where the control rod (300) has a spacer (330) in contact with the movable diffusion cone (200). Kopp further fails to disclose, suggest, or render obvious the limitation of where the control rod (300) includes a first rod (300a) displaceable along a longitudinal axis of the main body (100) for displacing the movable diffusion cone (200) and a second rod (300b) rotatably mounted to the first rod (300a) for displacing the spacer (330).

As shown in Fig. 6 and 8 and Kopp, there is no structure present in the approximate center of the tip of Kopp. Such structure would interfere with and detract from the creation of thrust of the engine of Kopp.

Turning to dependent claim 33, Kopp fails to disclose, suggest, or render obvious the limitation of a wheel (600) located outside a perimeter of the movable diffusion cone (200) and coupled to the main body (100) with an arm (610) that can swivel around a vertical axis defined by the main body (100) where the wheel (600) supports the main body (100) above weeds to be killed by the flames exiting the movable diffusion cone (200). Kopp does not have structure that would be analogous to the claimed wheel (600) and arm (610) as such structure would be wholly inappropriate for including with a jet engine of supersonic aircraft.

The remaining dependent claims are believed to be allowable due to their dependence on an allowable base claim and for further features recited therein. Withdrawal of all rejections in view of Kopp is respectfully requested.

#### **IV. Conclusion**

For at least the reasons set forth above, all claims are believed to be allowable. The application is believed to be in condition for immediate allowance. If any issues remain outstanding, Applicant invites the Examiner to call the undersigned if it is believed that a telephone interview would expedite the prosecution of the application to an allowance.

Respectfully submitted,

**AKERMAN SENTERFITT**

Date: July 18, 2008

/Peter A. Chiabotti/  
Peter A. Chiabotti, Reg. No. 54,603  
Customer No. 30448  
Post Office Box 3188  
West Palm Beach, FL 33402-3188  
Telephone: (561) 653-5000